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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------|------------------------|
| 10/694,521 | 10/27/2003 | Larry Lee Roundy | 199-0205US | 1892 |
| 29855 7590 10/30/2008 WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 SUITE 600 HOUSTON, TX 77070 | | | | |
| | | | EXAMINER SMITH, MARCUS | |
| | | | ART UNIT 2419 | PAPER NUMBER |
| | | | MAIL DATE 10/30/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,521

Applicant(s)

ROUNDY ET AL.

Examiner

MARCUS R. SMITH

Art Unit

2419

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-6,8-10 and 12 is/are rejected.
- 7) ☒ Claim(s) 3,7 and 11 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the appeal brief filed on 8/08/08, PROSECUTION IS HEREBY REOPENED. The examiner agrees with applicant's arguments, however, the claims to still rejection based new prior art set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4, 8, 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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4. Regarding claims 4, 8, and 12, the claimed limitation states further comprising answering the second incoming call, which is already recited in independent claims. How can the second call be answered twice, and be move to two different state when answered (second and third state)?

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kohler et al. (US 5,206,903)

Regarding to claim 1 (see figure 9), Kohler teaches a method for processing incoming calls comprising: receiving at least first and second incoming calls (steps 900, 901: column 10, lines 15-25: ACD receives incoming calls), retaining the first incoming call in a first state (step 902, column 10, lines 25-30, it is examines the oldest (first) call in the queue.), waiting until the first incoming call progresses to a second state (Step 905 :column 10, lines 40-45), answering the second incoming call and placing it in the first state after the first incoming call progresses to the second state (column 10, lines 40-45: after step 905, it goes back to steps 901,902 (also see step 911)), and transitioning the

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second incoming call in the first state to a second state (after 902, it transitions to step 905 : column 10, lines 40-45).

Regarding to claim 2, Kohler further teaches that the first state is a pending answer state (where the call is the head of queue waiting to be process; step 902) and the second state is a call connected state (step 905. column 10, lines 35-45).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5-6, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohler in view of Crouch et al. (US 7,188,888).

Regarding to claims 5, and 9 (see figure 9), Kohler teaches a method for processing incoming calls comprising: receiving at least first and second incoming calls (steps 900, 901: column 10, lines 15-25: ACD receives incoming calls), retaining the first incoming call in a first state (step 902, column 10, lines 25-30, it is examines the oldest (first) call in the queue.), waiting until the first incoming call progresses to a second state (Step 905 :column 10, lines 40-45), answering the second incoming call and placing it in the first state after the first incoming call progresses to the second state (column 10, lines 40-45: after step

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905, it goes back to steps 901,902 (also see step 911)), and transitioning the second incoming call in the first state to a second state (after 902, it transitions to step 905 : column 10, lines 40-45).

Kohler discloses all of the subject matter as described above except for instructions be on a video conferencing station.

Crouch et al. teaches a network where a gateway receives multiple calls and transfer those calls to its destination (see figures 4 and 6) similar to method taught in Kohler. Crouch teaches how two incoming calls to gateway get processed. The first call is being process by a proxy device while the other wait in a queue until proxy device is finished with the first call (see column 5, lines 55-65 and column 6, lines 25-38). However the system in Crouch invention is updated to operate handle H.323 terminals that can do video conferencing (column 2, lines 35-56). Thus it would have been obvious to one having ordinary skill in the art at the time invention was made to PBX to be updated to handle video conferencing station similar to gateway that is taught by Crouch in order to provide the proper resources to handle H.323 stations it is network (column 1, lines 1-21).

Regarding claims 6, and 10, see claim 2.

Allowable Subject Matter

9. Claims 3, 7, 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARCUS R. SMITH whose telephone number is (571)270-1096. The examiner can normally be reached on Mon-Thurs: 7:30 am - 5:00 p.m. and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on 571 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRS 10/24/08

/Wing F. Chan/
Supervisory Patent Examiner, Art Unit 2619
10/27/08